

Exhibit 3

From: Leo Cizek <leo.cizek@sun.com>
Sent: Thu Sep 22 2005 15:28:33 PDT
To: Matthew Marquis <matt.marquis@sun.com>
CC:
Subject: Time-sensitive: Google - Java ME proposal
Attachments:

Importance: Normal
Priority: Normal
Sensitivity: None

Hi Matt,

FYI, pls see below; I already fwd'd to Vineet.

leo

----- Original Message 9/19/2005 -----

From: Andy Rubin <arubin@google.com>
Subject: Re: Time-sensitive: Google - Standard JTWI Agrmts
To: Leo.Cizek@Sun.COM

Leo,

Sorry, I wasn't clear.

I was asking for you to modify the various agreements to allow our model, per our discussions with Vineet. I'm really hoping this is the approach Sun is comfortable with because I think it could mean a really close partnership. As discussed, the two companies are aligned against a common industry bully.

If Sun doesn't want to partner with us to support this initiative, we are fine releasing our work and not calling it Java.

- andy

On Sep 19, 2005, at 4:59 PM, Leo Cizek wrote:

> Hi Andy,
>
> Here is my attorney's response to your email below.
>
> "Leo, unfortunately Mr. Rubin is incorrect. Under SCSL, Google may

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

TRIAL EXHIBIT 617

CASE NO. 10-03561 WHA

DATE ENTERED _____

BY _____

DEPUTY CLERK

> not

> open source their Java ME implementation. Distribution of Source Code

> is sanctioned only to a Customer who is a Code Sharing Licensee of the

> same Technology (for example, a fellow SCSL licensee).

>

> This is how the code may be distributed (taken from the

> JTWI Standard Pack Attachment D). I've also included relevant

> definitions.

>

> c) 'Customers' means: (A) Device Manufacturers and (B) Channel

> Licensees distributing Your Port(s) to Device Manufacturers.

>

> Def: 'Code Sharing Licensee' is embedded in provision below.

>

> 5. Additional Requirements and Responsibilities. In addition to the

> requirements and responsibilities specified in the Research Use

> license,

> the TCK license [Attachment E] and the Internal Deployment license,

> and

> as a condition to exercising the rights granted in Section 4 above,

> You

> agree to the following additional requirements and responsibilities:

>

> a) Distribution of Source Code. Source Code of Compliant Covered Code

> may be distributed only to a Customer (as defined in Section 2(c)

> above)

> who is at all times a Code Sharing Licensee, defined as: (i) a

> Licensee

> of the same Technology; or (ii) a party otherwise authorized by

> Original

> Contributor in a written license agreement to receive and share

> Covered

> Code, provided that the Customer Agreement (as defined in Section 8(h)

> below) with such party makes clear that Compliant Covered Code

> provided

> to such party is subject to the restrictions and obligations of such

> party's license agreement with Original Contributor.

>

> b) Distribution of Executable Code. You may distribute the Executable

> version(s) of Compliant Covered Code only to a Customer who is

> Licensee

> of the same Technology under a license of Your choice, which may

> contain

> terms different from this License, provided (i) that You are in

> compliance with the terms of this License, including without

> limitation

> Section 8(h), below,(ii) You must make it absolutely clear that any

> terms which differ from this License are offered by You alone, not by

> Original Contributor or any other Contributor and (iii) Your

> Customer is

> paying royalties directly to Original Contributor, in accordance with

> the Customer's commercial use license with Original Contributor for

> the

> Technology licensed hereunder, for distribution of said Customer's

> Products."
>
>
> Andy, I look forward to your response.
>
> Regards,
>
> leo
>
>
> Leo Cizek wrote:
>
>
>> Hi Vineet and Matt,
>>
>> Re the email trail below, please advise.
>>
>> leo
>>
>> ----- Original Message sent on 9/19/2005 -----
>>
>> From: Andy Rubin <arubin@google.com>
>> Subject: Re: [Fwd: Google - Standard JTWI Agrmts]
>> To: Leo.Cizek@Sun.COM
>> CC: Tim Lindholm <lindholm@google.com>
>>
>> Hi Leo,
>>
>> Thanks for the reply.
>>
>> I reviewed the documents. Looks like there are no roadblocks to us
>> taking a license and then open sourcing our implementation.
>>
>> Right now we are moving ahead with the project, and doing an
>> independent implementation. If Sun would like to get involved, we'd
>> be happy to have you.
>>
>> Here are next steps:
>>
>> 1) Sun to determine if they want to partner with us on this project
>> 2) Sun to provide Google with a custom license that specifically
>> permits our ability to open source our implementation
>> 3) Sun should not restrict what the community can do with our
>> implementation
>>
>> Next steps: Put our lawyers together with yours to hash out the
>> license agreement. Before we do that I want to make sure your
>> executives have agreed to our proposal.
>>
>> Thanks for your help, Leo.
>>
>> - andy
>>
>> On Sep 19, 2005, at 10:25 AM, Leo Cizek wrote:

>>
>>
>>> Hi Andy,
>>>
>>> Re my email below, could you bring me up to date on the status of
>>> your
>>> interest in licensing Java ME?
>>>
>>> Thanks,
>>>
>>> leo
>>>
>
>
> --
> Leo Cizek
> Account Manager
> OEM Software Sales
> Sun Microsystems
> Cell: (415) 806-9009
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>

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